



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

January 27, 2009

The Honorable Robert Williams, Chairman
House Transportation Committee
Legislative Office Building, Room 203
Concord, NH 03301

Re: HB 259 relative to motor vehicle inspections

Dear Chairman Williams and Members of the Committee:

The Department of Environmental Services (DES) is pleased to offer testimony on House Bill 259, which seeks to change the annual motor vehicle inspection requirement to a biennial requirement. DES is concerned with the impact this bill would have on the state's ability to meet federally enforceable motor vehicle inspection requirements of the Clean Air Act (CAA) and attain compliance with national ambient air quality standards (NAAQS), thus leading the agency to oppose the bill as proposed.

The motor vehicle inspection and maintenance (I/M) program, including the On Board Diagnostics (OBD) inspection for 1996 and newer vehicles, is the primary means through which the State is able to reduce emissions from our motor vehicle fleet. The CAA requires a tailpipe testing I/M program for portions of New Hampshire, a requirement the state was able to negotiate to the less burdensome annual OBD inspection now in place.

Tailpipe emissions from motor vehicles account for approximately one half of the emissions that cause ground level ozone, a respiratory irritant that is the primary ingredient of smog. Portions of the southern four county area, including Merrimack, Hillsborough, Rockingham, and Strafford counties, are currently in non-attainment with the NAAQS for ground level ozone. The ozone NAAQS has recently been revised downward, making it more stringent and more protective of public health. Future revisions to the boundaries of the ozone non-attainment area to reflect the revised standard are likely to include more towns than are in the current non-attainment area. Relaxing our vehicle I/M program to a biennial requirement would do a disservice to our citizens by failing to protect their health and welfare to the maximum extent possible.

Motor vehicles are also on par with the power generation sector in their contribution to greenhouse gas (GHG) emissions. With scheduled decreases in GHG from the power sector under the Regional Greenhouse Gas Initiative motor vehicles are anticipated to become the single largest source of GHG emissions in the state within the next decade. Annual inspections serve to maintain motor vehicles in proper operating condition, keeping them operating as efficiently as possible, thus preventing excess GHG emissions.

Annual inspections also benefit consumers by alerting them to, and requiring repairs for, vehicle malfunctions in a timely manner. A minor problem such as a bad spark plug would trigger the "check engine" light and, under the current OBD program, require repair. At this point it is a very low cost repair. Failure to implement the repair in a timely manner could lead to damage to engine cylinders or to the catalytic converter, resulting in very costly repairs.

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The vehicle I/M program in its current (annual) format is an enforceable component of the state's approved State Implementation Plan (SIP) and is the result of an agreement negotiated with Environmental Protection Agency (EPA) to avoid sanctions for failure to implement a required "tailpipe test" program. If the State were to change our program without prior approval, the EPA could preempt any new state statutory language and require implementation of the program in the federally approved SIP. Alternatively, the EPA could impose sanctions on the state including economic penalties on new business development and/or loss of federal highway funds. Should EPA fail to hold the state accountable for its SIP commitment, third parties could file suit to require federal enforcement, thus eliminating the flexibility to substitute the more consumer friendly, less costly and less intrusive OBD test contained in the state's agreement for what would otherwise be a more expensive "tailpipe test" required under the CAA.

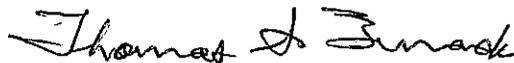
The federal CAA also has "anti-backsliding" provisions that bar a state from reducing the effectiveness of an approved SIP. Changing to a biennial I/M program would necessitate corresponding emission reductions from another sector. New Hampshire's business sector has clearly voiced their opinion that it is time for the state to maximize reductions in the mobile source sector rather than place additional burdens on the business community.

The General Court has reviewed both the need for and implementation of the vehicle emissions testing program numerous times, beginning in 1998 when the Department of Safety, DES, and the General Court (HB 1513) reached an agreement with the EPA regarding the state's CAA requirement for emissions testing. In subsequent legislative sessions the current vehicle inspection program has been reviewed and upheld, in 2005 with HB 513, HB 579, and SB 148, and in 2006 with HB 1356, HB 1328, and SB 341. In 2007, the General Court addressed a bill essentially identical to this current bill, HB 449, and found it inexpedient to legislate. In each of these three recent sessions the General Court has affirmed the need for the annual OBD inspection to be implemented by not passing bills to change or repeal the I/M program.

The motor vehicle inspection program is a relatively low cost, consumer friendly program that significantly reduces air pollution, provides health and safety benefits to consumers, and meets the state's obligations under the CAA. The current program ensures that at least annually car owners will be required to maintain their vehicles to minimize emissions. A biennial schedule will weaken the environmental protections resulting from the current system and will jeopardize the state's compromise with aforementioned federal requirements. Lastly, any revisions of this program should be carefully considered in light of the existing vendor contract for program management and implementation. A breach of that contract could potentially cost the state several million dollars. DES urges the committee to vote inexpedient to legislate on this bill.

Thank you for your attention in this matter. Should you have further questions or need additional information please feel free to contact Robert R. Scott, Director, Air Resources Division (271-1088, robert.scott@des.nh.gov) or Rebecca E. Ohler, Supervisor, Mobile Source Planning (271-6749, rebecca.ohler@des.nh.gov).

Sincerely,



Thomas S. Burack
Commissioner

cc: Rep. Steve Vaillancourt, Sponsor